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field of politics the struggle that is going on for relief or control, is between conflicting interests,—a landed interest, a transport interest, a railway interest, a labor interest, a shipping interest, etc., and the solution is still with the Sphinx.

Those who are students of history, like Professor Beard, and those who know his historical contributions on the economic history of the Constitution and of Jeffersonian democracy, will not quarrel with his contention that our political doctrines are often in conflict with the actual facts in our political life, and that it is only a delusion and a scare to think that politics deals merely with abstract men divorced from economic interest and group sentiment. These virile essays will interest all students of politics and history.

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The Supreme Court in United States History. By CHARLES WARREN. Three volumes. (Boston: Little, Brown and Company. 1922. Pp. xvi, 540; x, 551; x, 532.)

These volumes are useful, enlightening, absorbing. They trace the relation between the Supreme Court and the history of the United States. They do this in several ways. They tell who have been suggested for judgeships. They give the peculiarities, partisan views, and judicial record of the appointees. They state the essential facts and surrounding circumstances and ultimate decisions of the most important cases. They present the comments of newspapers and of politicians. They do all this in an approximately chronological order; but now and then they turn aside to point out by way of generalization the apparent trend of decisions and their relation to political and economic phenomena.

The author deserves praise for originality, thoroughness of investigation, fairness of spirit, and clearness of expression. His book is the result of vast research. The foot-notes teem with citations. Hundreds of these deal with easily accessible material, such as law reports, well-known magazines, and biographies; and other hundreds deal with old newspapers, manuscripts, and other sources which could not have been found without unusual labor.

The quotations are chiefly restricted to the comparatively inaccessible material; and as they are inserted for the purpose of proving the prevalence of opinions, or at least the expression of them by an

appreciable number of newspapers or politicians, they very properly abound in cumulative repetitions.

One of the results of reading these volumes carefully and especially the quotations—must be grave disrespect for the expressions in which newspapers and politicians have indulged and still indulge; for the repetitions create a suspicion that there is little individual thinking, and the frequent reversal of expression in accordance with changed partisan needs enlarges the suspicion into a conviction. If any reader has had enthusiasm for any past or present political party, these volumes hold for him a sad enlightenment. Yet that enlightenment will create no disrespect for the members of the Supreme Court of the United States. On the contrary, it will create great respect for them. Study of the decisions shows that when the court cannot agree, the disagreement of the judges does not, as in the instance of newspapers and politicians, habitually follow a partisan line.

As the author has been writing as a philosophical historian, he has been compelled to have in mind a theory wherewith to test the growth of facts. He has had indeed two theories, one that the judges of the national court inevitably tend to emphasize the national power rather than the state power, and the other that a great feature in the history of the Supreme Court has been the emergence from generation to generation of new groups of problems. The two theories are consistent, and they are amply upheld by the facts. That federal judges, irrespective of party, recognize the nationalistic intent of the Constitution, and simultaneously attempt to respect the functions of the states, has been shown for more than a century, to the confusion of such dreamers as lazily divide judges into loose-constructionists and strict-constructionists. That each generation has had its own new group of problems is equally true. With approximate accuracy it can be said that in the first third of the nineteenth century the Supreme Court had two tasks—one the task of demonstrating that according to the constitutional limitations cautiously created by the people of the United States the judges have the duty to protect the individual against the use of unbridled power by the executive and legislative departments, and the other the task of insisting that, though nation and state co-exist and must exercise their respective functions, nevertheless within the terms of the Constitution the nation is paramount. Further, in the second third of the nineteenth century the task was to prevent the Constitution from clogging, by the contract clause or otherwise, the development accompanying the rise of railways and of factories. Finally, in the last third of the nineteenth

century the tasks—not yet carried to completion—were to ascertain the respective limits of the states and the nation under the Fourteenth Amendment and the commerce clause.

The period covered is 1789–1918; but the author explains that the detailed discussion ends with 1888 and that for the subsequent thirty years, well remembered by many of his readers, he has given only a broad outline.

As the author addresses his book to all persons, whether lawyers or laymen, who are interested in history or in government, it is obvious that he has been compelled to lay emphasis upon constitutional problems and to omit most of the decisions, however important, which deal exclusively with the lawyer's work in contracts, torts, criminal law, and the like. It is obvious too that he has been under the temptation to humor the layman's habit of over-emphasizing the Chief Justice as distinguished from the associate justices. Yet he has not gone to excess in these directions. He knows well that the greater part of the court's work deals with questions not distinctly governmental; and, as he appreciates the importance of the non-governmental cases, he has been quick to perceive the instances where, as in *Swift v. Tyson*, such cases have actual bearing on the relative spheres of state and nation (II, 362–365). Similarly, he knows the standing of associate justices, and he does proper honor to them, although he carefully and properly refrains from narrating that in the greater part of the period from 1789 to 1918 the members of the Supreme Court bar would not have called the Chief Justice the ablest member of the court—especially as regards non-governmental topics. Indeed, the great lesson of these painstaking volumes is that all members of the court have conscientiously and skilfully coöperated and that for this reason, notwithstanding personal shortcomings and occasional erroneous decisions, this complicated piece of human machinery has accomplished successfully the unprecedented duty of building upon the basis of a brief document a system of political doctrine covering manifold relations of the individual and the state and the nation.

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